

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

In the Matter of)	
)	
Request for Waiver of Section)	CC Docket No. 91-281
64.1601(b) of the Rule – Blocked)	
Telephone Numbers)	

COMMENTS OF CENTURYLINK

CenturyLink comments here in response to the *Public Notice* (DA 12-210), dated Feb. 14, 2012, that seeks comment on a Petition for Waiver, filed by Chevrah Hatzalah Volunteer Ambulance Corps, Inc. (Hatzalah). CenturyLink opposes granting Hatzalah's Waiver Petition, because it raises questions of general applicability, fails to demonstrate special circumstances, and seeks a rule change rather than a waiver.

I. HATZALAH'S PETITION FOR WAIVER PRESENTS QUESTIONS OF GENERAL APPLICABILITY, WHICH ARE BETTER SUITED TO A PETITION FOR FURTHER RULEMAKING.

The Petition involves the calling party number (CPN) delivery rules found in 47 C.F.R. § 64.1601(b) and the requirement that common carriers abide by user-imposed privacy identifiers when terminating calls in an SS7 environment. Hatzalah argues that, because its business is associated with public health and safety, it should be allowed to receive and use all CPN information, even if the caller has asked that the display be blocked. Hatzalah claims that callers who have chosen to block the display of their telephone number "should not be deemed to have made that election when they call Hatzalah's emergency services number . . . [because] [i]n that case, the public interest dictates that a caller's safety . . . should supersede the caller's interest in

limiting dissemination of [the] number.”¹ Despite what appear to be policy arguments regarding callers’ intentions in emergency situations, Hatzalah asserts that any granted “waiver would apply only to calls made to Hatzalah’s dedicated emergency telephone lines[.]”²

It is not realistic to assume the scope of the Waiver Petition could or would ultimately be limited to Hatzalah acting as a single private, not-for-profit ambulance service operating in New York State.³ And while the Waiver Petition claims to seek “a waiver so that carriers may transmit to [Hatzalah] the restricted CPNs of callers to Hatzalah’s emergency services telephone number,”⁴ its Conclusion asks for waiver relief of the current CPN-delivery restrictions in “recogni[tion] [of] the important role already being served by private agencies in protecting public health and safety.”⁵

The anticipated scope of the Waiver Petition is extremely broad: ambulance and other “private agencies” engaged “in protecting public health and safety” across the United States. Relief of this magnitude should be resolved through a rulemaking, not a waiver, proceeding. This is particularly true given that the current balance regarding the delivery of blocked CPN in place since 1994 -- allowing such delivery to **public** agencies in certain situations⁶ -- was itself determined in a rulemaking.

¹ Waiver Petition at 5-6.

² *Id.* at 7.

³ *Id.* at 1-2, 3.

⁴ *Id.* at 1.

⁵ *Id.* at 8; and see note 10, *infra*.

⁶ *In the Matter of Rules and Policies Regarding Calling Number Identification Service – Caller ID, Report and Order and Further Notice of Proposed Rulemaking*, 9 FCC Rcd 1764, 1770 ¶ 37 (1994) (1994 Caller ID Order) and 47 C.F.R. § 64.1601(d)(4)(ii).

II. HATZALAH FAILS TO MEET THE LEGAL STANDARD FOR A WAIVER OF COMMISSION RULES.

A. Hatzalah Does Not Demonstrate “Special Circumstances” Warranting A Waiver.

Hatzalah argues that it needs to be able to receive blocked CPN in order to reach callers in distress who either become disconnected from its service or who need re-assurance that help is on the way.⁷ In support of its position, Hatzalah associates its current position with that addressed in the *INSIGHT 100 Waiver Order*,⁸ alleging that its situation presents “special circumstances, including considerations of hardship, equity, or more effective implementation of overall policy,” and that deviation from the existing CPN-delivery rules “would better serve the public interest than would strict adherence to the rule.”⁹ Yet Hatzalah demonstrates no special circumstances differentiating it from other private ambulance companies in the United States or other private businesses that participate in or support “public health and safety.”¹⁰

⁷ Waiver Petition at 3-4.

⁸ *In the Matter of INSIGHT 100 Petition for Waiver of § 64.1601(b) Regarding the Transmission of Calling Party Number*, Memorandum Opinion and Order, 17 FCC Rcd 223 (2002) (*INSIGHT 100 Waiver Order*).

⁹ Waiver Petition at 4, citing *INSIGHT 100 Waiver Order*, 17 FCC Rcd at 224-25 ¶ 7.

¹⁰ Hatzalah’s Waiver Petition is sometimes crafted to seek relief only for itself. For example, it asks that carriers be able to transmit blocked CPNI “to Hatzalah’s emergency services telephone number.” Waiver Petition at 1. And it later argues that its “dispatch system is stymied when [an] incoming call” comes from a blocked number. *Id.* at 2. It argues that the benefits of CPN delivery to its dispatchers is “lost when CPN is blocked, [because its] dispatcher must also take time during the call to ask for and record the caller’s number.” *Id.* at 3. Such statements clearly reference Hatzalah’s operations.

On the other hand, many of the sentences in the Petition could apply to any number of private emergency services providers. For example, Hatzalah’s assertion that the “inability to automatically identify callers [can] create[] . . . problems that can delay or even prevent the timely response of emergency care” (Waiver Petition at 3), is not an observation confined to Hatzalah’s operations. Nor is the remark that the “ability to quickly and accurately identify and locate callers is paramount to the mission of emergency service providers, and strict adherence to the general rule . . . runs counter to the public’s interest in receiving life-saving medical attention in a timely manner.” *Id.* at 5. Similar statements of broad applicability include: that “deviation

Contrary to the suggestions in the Waiver Petition, Hatzalah's situation (and those of other emergency support services providers) is not similar to that presented to the Commission in the INSIGHT 100 matter. First, unlike the INSIGHT 100 context, Hatzalah's request is almost unbounded by potentially benefited entities. In the INSIGHT 100 situation, on the other hand, the Commission found that the benefited parties constituted "only a narrow and well-defined class of public institutions," thus rendering the standard associated with granting the waiver "predictable and workable."¹¹ Second, the CPE utilized by the INSIGHT 100 Petitioners was in that nature of a common-carrier piece of switching equipment,¹² *i.e.*, equipment that carriers were routinely already terminating calls to and displaying both CPN and any privacy-imposed restrictions. Neither is the case with respect to Hatzalah.

The logic of Hatzalah's Waiver Petition applies to a large class of service providers lacking any narrow definition; and it implicates a broad range of call-termination CPE. Unlike the factual constraints identified and associated with the *INSIGHT 100 Waiver Order*, there are thousands of "private agencies" in the United States that would characterize their business operations as -- in some way -- being involved "in protecting public health and safety." And the equipment those companies use to provide such services undoubtedly varies from Hatzalah's

from the rule in this case will lead to a more effective implementation of overall policy promoting the availability of emergency services" (*id.* at 6); or the Conclusion of the Petition arguing that the Commission should allow blocked-CPN to be delivered to private emergency service operators in "recogni[tion] [of] the important role already being served by private agencies in protecting public health and safety." *Id.* at 8.

¹¹ *INSIGHT 100 Waiver Order*, 17 FCC Rcd at 225 ¶ 9. The parties were "state and private universities" and "public and private hospitals and medical systems, sharing" the "unique characteristic" of providing residential-type services, including "emergency response and public safety services within their campuses." *Id.* at 223 ¶ 3. These entities were described as providing "non-public communications to unique, closed groups of users." *Id.* ¶¶ 2, 3.

¹² "These entities operate central office (CO) class equipment that function as end-office equivalents for the lines they serve." *Id.* ¶ 2.

proprietary “state-of-the-art computer-aided dispatch system.”¹³ Given the failure of the Petition to demonstrate “special circumstances” faced by Hatzalah with respect to the existing CPN-delivery rules, its Waiver Petition should not be granted.

B. The Petition Seeks A Rule Change Rather Than A Waiver, And Is More Properly Resolved In A Rulemaking Proceeding.

Hatzalah acknowledges that the Commission addressed the general question about the relationship between the Commission’s CPN-blocking proposals and “other policies such as [the need for] calling party identification by emergency services,” when it promulgated its CPN-delivery rules back in 1994.¹⁴ Then, as the Petition notes, the Commission resolved the matter by deciding that blocked CPN should be delivered to a public agency’s lines in certain situations.¹⁵ Hatzalah asserts that its “needs are the same as those of public safety entities,” and it argues that, accordingly, it should have the same access to CPN as these public agencies.¹⁶

Contrary to the Petition’s assertions, though, it is not obvious that the needs of private emergency services providers are the same as those associated with public agencies, agencies generally charged by legislative or government imperatives to protect the public health and safety. For this reason, the arguments pressed by Hatzalah in support of its Waiver Petition are more appropriate in a petition for modification of a rule or for a further rulemaking. Hatzalah’s arguments are based on broad-policy determinations, not specific factual situations where applying a particular rule would result in an aberrant result or a surprising or shocking compromise of the public interest.

¹³ Waiver Petition at 2.

¹⁴ *Id.* at 4-5.

¹⁵ See note 6, *supra*.

¹⁶ Waiver Petition at 5.

In arguing in support of its Waiver Petition, Hatzalah claims the granted relief would apply only to it. But, as shown above, it makes no convincing argument that applying such relief only to Hatzalah would be responsive to some kind of “special circumstance” faced only by it. Nor can it rebut the predictable and likely scenario that would follow any Commission grant of a waiver to Hatzalah, *i.e.*, scores of requests for waivers from many emergency services providers.

Additionally, the Petition (crafted as it is as a single-company waiver petition) does not address the matter of carrier identifications of terminating numbers to emergency service providers generally. While carriers could program their switches to allow the display of CPN when interconnecting with CPE that essentially mimicked carrier equipment (*i.e.*, a central office CLASS switch) without extraordinary cost or network modifications (as was the case in INSIGHT 100), that fact pattern bears no resemblance to that suggested by the broader implications of the Hatzalah Petition. Any suggestion that carriers should deliver blocked-CPN for display to emergency service providers generally requires a record on which any reasonable cost/benefit analysis could be conducted. Given that private emergency service providers have hundreds and hundreds of telephone numbers across the country, it is reasonable to assume that it would be extremely costly for carriers to have to isolate these numbers (often POTS numbers) and program network and switching equipment such that calls going to those numbers would deliver CPN in all cases.

Finally, a deviation from an existing Commission rule through a waiver process is not necessarily warranted every time someone thinks the public interest would be better served by non-compliance or by approaching a matter differently than a rule compels. Waivers are appropriately granted only when special circumstances support the conclusion that the rules should not be applied in specific circumstances. To the extent an existing rule no longer makes

sense generally in a current environment, or an entity wants the Commission to re-evaluate a previously-reached balance regarding a matter, the appropriate mechanism is a petition for a modification of the rule or further rulemaking.

CenturyLink believes the relief requested by Hatzalah in its Waiver Petition is more appropriately addressed through such a rulemaking process than a one-off waiver petition. In the meantime, Hatzalah's Waiver Petition should be denied.

Respectfully submitted,

CENTURYLINK

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